

Message Text

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ACTION NEA-11

INFO OCT-01 EUR-12 ISO-00 NEAE-00 SOE-02 AID-05 CEA-01

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FM AMEMBASSY ABU DHABI

TO SECSTATE WASHDC PRIORITY 7963

INFO AMEMBASSY DOHA

AMEMBASSY KUWAIT

AMEMBASSY LONDON

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

AMEMBASSY TEHRAN

C O N F I D E N T I A L SECTION 1 OF 2 ABU DHABI 1634

E.O. 11652: GDS

TAGS: ENRG, EINV, IR, C

SUBJ: SHARJAH THREAT TO NATIONALIZE CRESCENT PETROLEUM

REFS: (A) ABU DHABI 1490, (B) ABU DHABI 1604, (C) STATE 142609

BEGIN SUMMARY: RULER OF SHARJAH SAYS THREAT OF NATIONALIZATION AND RETROACTIVE APPLICATION OF HIGHER TAX AND ROYALTY CLAIMS AGAINST COMPENSATION WAS NOT OFFICIALLY CONVEYED TO CRESCENT MANAGING DIRECTOR HAMID JAAFAR ON JUNE 3 BUT WAS IN CONTEXT OF PRIVATE CONVERSATION. RULER SAID HE COULD NOT TAKE SUCH A STEP AS NATIONALIZATION WITHOUT APPROVAL OF NATIONAL IRANIAN OIL COMPANY(NIOC). HOWEVER, RULER APPEARS TO BE SERIOUSLY CONSIDERING THIS STEP IF CRESENT UNWILLING TO RESPOND TO HIS LAST COMPROMISE PROPOSAL TO TRY AND SEEK NIOC APPROVAL TO HAVE RETROACTIVITY MOVED FROM JULY 1, 1976 TO JULY 1, 1977 IN APPLICATION OF NEW 77/14.5 PERCENT TAX AND ROYALTY. END SUMMARY

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1. ACCOMPANIED BY DUBAI OIC CHARLES CURRIER, I CALLED ON SHAIKH SULTAN OF SHARJAH AT NOON JUNE 7. (THE INSTRUCTIONS PROMISED IN REF C HAD NOT ARRIVED.) REFERRING TO OUR PREVIOUS CONVERSATION OF MAY 24 (REF A) WHEN I HAD POINTED OUT THAT REFUSAL TO ARBITRATE ON GROUNDS OF SOVEREIGNTY WOULD MEAN REPUDIATION OF AN AGREEMENT FREELY ENTERED INTO AND INVOLVE A LENGTHY LEGAL PROCESS, I SAID I

NOW HAD BEEN INFORMED THAT RULER HAD TOLD CRESENT ON JUNE 3 HE WAS SERIOUSLY CONSIDERING NATIONALIZATION. I HAD FURTHER BEEN LED TO UNDERSTAND THAT RULER CONSIDERING APPLYING RETROACTIVELY HIGHER TAX AND ROYALTY CLAIMS AS OFFSET TO COMPENSATION THAT WOULD BE DUE TO CRESCENT UPON NATIONALIZATION. I SAID THAT USG RECOGNIZES THE SOVERIGN RIGHT OF A STATE TO NATIONALIZE BUT IF IT DOES, WE WOULD INSIST ON PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION. I SAID IT WAS MY UNDERSTANDING THAT RETROACTIVE APPLICATION OF HIGHER TAX AND ROYALTY PAYMENTS AGAINST COMPENSATION, IF NOT ACCEPTED BY CRESCENT, WOULD BE VIEWED BY USG AS INADEQUATE COMPENSATION. IT WOULD BECOME A GOVERNMENT-TO-GOVERNMENT ISSUE.

2. SHAIKH SULTAN REPLIED "YOU GOT THIS FROM HAMID JAAFAR." HE SAID HE HAD BEEN SPEAKING TO JAAFAR PRIVATELY ABOUT NATIONALIZATION AND APPLYING PAST DUE TAXES IN THE EVENT CRESCENT REFUSED SHARJAH'S LATEST OFFER. I POINTED OUT THAT IT WAS MY UNDERSTANDING THAT JAAFAR HAD ASKED RULER IF THREAT OF NATIONALIZATION SHOULD BE TRANSMITTED AS "OFFICIAL" AND RULER HAD SAID YES. JAAFAR HAD THEN CONVEYED THIS MESSAGE TO THE SHAREHOLDERS WHO UNDERSTANDABLY WERE VERY CONCERNED. SHAIKH SULTAN REPLIED THAT HE COULD NOT TAKE SUCH A STEP AGAINST THE COMPANY WITHOUT FIRST OBTAINING NIOC'S APPROVAL, AS CO-BENEFICIARIES FROM CONCESSION PAYMENTS. HE HAD NOT BEEN DELIVERING "AN OFFICIAL MESSAGE" BUT WAS "TALKING TO A FRIEND" ABOUT WHAT STEPS HE MIGHT PLAN TO TAKE IF THERE WERE COMPLETE STALEMATE.
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3. RULER THEN REITERATED HIS PRIOR COMPLAINTS AGAINST CRESCENT, CLAIMING COMPANY HAD NOT REPONDED TO HIS PERSONAL PROPOSAL TO MOVE RETROACTIVE DATE FOR APPLICATION OF 77/14.5 PERCENT TAX AND ROYALTY FROM JULY 1, 1976 TO JULY 1, 1977 -- GETTING THIS EXTRA YEAR WAS "HIS PROPOSAL" AND HE HAD NOT YET DISCUSSED IT WITH THE IRANIANS. HOWEVER, IF COMPANY AGREED, SHAIKH SULTAN SAID HE WOULD THEN BE WILLING TO TRY AND SELL THIS "FURTHER COMPROMISE" BY TALKING DIRECTLY TO THE SHAH. HE SAID HE HAD "PROTECTED" CRESCENT UP TO NOW, HAVING WORKED OUT AN EARLIER COMPROMISE BETWEEN NIOC AND THE COMPANY WHEN NIOC ORIGINALLY INSISTED ON APPLYING HIGHER TAX AND ROYALTY PAYMENTS BACK TO JULY 1, 1975. HAVING OBTAINED NIOC AGREEMENT TO BACK DATE IT TO JULY 1, 1976 HE WAS STILL WILLING TO TRY AND "PROTECT" CRESCENT BY ACTING AS "A THERMOSTAT" BETWEEN BOTH SIDES" BUT I DO NOT WANT TO BE BURNED UP IN THE PROCESS".

4. RULER WAS ASKED AGAIN FOR HIS VIEWS ABOUT CRESCENT SPEAKING DIRECTLY TO NIOC. THE LAST TIME I HAD RAISED THIS, HE HAD SAID HE HAD NO OBJECTION PROVIDED IT WAS DONE IN SHARJAH. THIS TIME, HE SAID YES BUT MODIFED HIS POSITION BY SAYING THAT IF THE COMPANY WANTED TO DO THIS, HE COULD NO LONGER PLAY A ROLE AS A MIDDLE-MAN. IF CRESCENT WANTS TO PUT ITSELF IN A POSITION AGAINST HIM

BECAUSE IT FEELS HE HAS NOT DONE ENOUGH AND IT CAN GET BETTER
TERMS ON ITS OWN FROM NIOC, IT WAS WELCOME TO DO SO. HOWEVER, HE
WOULD THEN BACK OUT OF THE NEGOTIATIONS. HE THOUGHT NIOC WOULD BE A
LOT TOUGHER WITH THE COMPANY THAN HE HAD BEEN. HE STRESSED THAT
HE HAD HAD VERY GOOD RELATIONS WITH CRESCENT OVER THE YEARS BUT HE
NOW FELT THAT THE COMPANY WAS TRYING TO EXPLOIT THE FIELD AS QUICKLY
AS POSSIBLE AND THEN GET OUT WHEN MOST OF THE OIL IS EXHAUSTED. HE
ALSO FELT CRESCENT DID NOT APPRECIATE THE STANCE HE HAS TAKEN BETWEEN
THE COMPANY AND THE IRANIANS.

5. RULER ALSO SAID THAT SHARJAH HAD REJECTED ARBITRATION FOR TAX AND
ROYALTY AND THIS REJECTION HAD BEEN GIVEN IN WRITING. WHEN ASKED
WHY, SINCE SHARJAH AS WELL AS CRESCENT COULD WIN BEFORE AN ARBITRAL
TRIBUNAL, SHAIKH SULTAN SAID IT WAS BECAUSE THE STATE HAS THE
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SOVEREIGN RIGHT TO APPLY TAXES. I POINTED OUT THAT THE RIGHT OF A
STATE TO APPLY TAXES WAS NOT IN QUESTION BUT HIS POSITION WOULD
VIOLATE THE PROVISION OF THE 1969 CONCESSION AGREEMENT OBLIGING
SHARJAH AND CRESCENT TO GO TO INTERNATIONAL ARBITRATION OVER ANY
ISSUE THAT COULD NOT BE RESOLVED SATISFACTORILY THROUGH BILATERAL
NEGOTIATIONS. TAX AND ROYALTY ISSUES ARISING FROM CONCESSIONS HAD
HAD GONE BEFORE INTERNATIONAL ARBITRAL BODIES BEFORE. HERE I CITED
THE LIBYAN CASE AS AN EXAMPLE.

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C O N F I D E N T I A L SECTION 2 OF 2 ABU DHABI 1634

6. OUR CONVERSATION ON THIS SUBJECT ENDED WITH SHAIKH SULTAN EXPRESSING HOPE THAT CRESCENT WOULD SHORTLY RESPOND TO HIS LAST PROPOSAL SO THAT HE COULD DECIDE WHAT ACTION TO TAKE. HE ASSUMED SHAREHOLDERS WERE NOT REPLYING IN ORDER TO DRAG OUT NEGOTIATIONS. I ASKED SHAIKH SULTAN IF I COULD CONVEY TO JAFFAR THAT RULER HAD NOT "OFFICIALLY" CONVEYED THREAT TO NATIONALIZE CRESCENT. HE AGREED AND SAID HE WOULD BE IN CONTACT WITH JAA FAR LATER IN THE DAY.

7. COMMENT: WE BELIEVE WE HAVE GONE AS FAR AS WE CAN FOR MOMENT WITH SHAIKH SULTAN AND THAT HE SHOULD HAVE NO MISUNDERSTANDINGS ABOUT USG POSITION RE PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION TO SHAREHOLDERS IF CRESCENT NATIONALIZED. OUR MEETING WAS CORDIAL BUT SULTAN SEEMED IRRITATED AND TAKEN ABACK THAT HIS REMARKS TO JAA FAR ABOUT NATIONALIZATION AND APPLYING BACK TAXES HAD BEEN REPORTED TO ME. I SUSPECT THAT SHAIKH SULTAN SOMETIMES FORGETS WHEN HE IS TALKING TO JAA FAR AS A PERSONAL FRIEND AND WHEN HE IS TALKING TO CONFIDENTIAL

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HIM AS MANAGING DIRECTOR OF CRESCENT. OUR TALK MADE HIM REALIZE THAT WE DO NOT TAKE HIS REMARKS IDLY. BUT REGARDLESS OF WHETHER HE OFFICIALLY OR UNOFFICIALLY CONVEYED HIS THREAT TO NATIONALIZE, IT SEEMS PRETTY CLEAR THAT HE INTENDS TO PROPOSE THIS ROUTE TO NIOC IF CRESCENT REFUSES TO ACCEPT HIS LAST PROPOSAL TO MOVE RETROACTIVE DATE TO JULY 1, 1977 FOR HIGHER TAX AND ROYALTY, I.E., THE DATE WHEN HIS CURRENT NEGOTIATIONS WITH CRESCENT BEGAN. HE APPEARED CONVINCED THAT HIS LAST PROPOSAL WAS AS FAR AS HE COULD PROPOSE TO NIOC AND STILL OBTAIN ITS COOPERATION ANYTHING MORE THAN THIS HE EVIDENTLY BELIEVES WOULD BE REJECTED BY THE IRANIANS.

8. WE HAVE PASSED ON POINTS MADE TO ME BY SHAIKH SULTAN TO JAA FAR. HE REPORTS THAT SHAREHOLDERS MET IN HOUSTON ON JUNE 6 TO CONSIDER WHETHER THEY SHOULD RESPOND POSITIVELY TO SHAIKH SULTAN'S PROPOSAL. COST TO COMPANY OF APPLYING 77/14.5 PERCENT TAX AND ROYALTY BACK FROM JANUARY 1, 1978 (COMPANY'S POSITION) TO JULY 1, 1977 HAS BEEN CALCULATED AT \$7.5 MILLION. SHAREHOLDER REACTION HAS BEEN QUITE NEGATIVE AND JAA FAR EXPECTS RECEIVE FINAL COMPANY ANSWER BY JUNE 9. DICKMAN

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